CONFERENCE ON DISARMAMENT

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PROGRESS REPORT

BY THE FRIEND OF THE CHAIR ON HOST COUNTRY COMMITMENTS

OF THE GOVERNMENT OF AUSTRIA

TO THE CTBT PREPARATORY COMMISSION

GE.96-63715

Background

1. On Monday, 1 July, the Friend of the Chair reported progress in three areas related to addressing the codification of Host Country commitments of the Government of Austria to the CTBT Preparatory Commission (PrepCom). At that time and with the cooperation of all interested delegations, the Friend of the Chair was able to report that the group had decided that the commitments should be recorded in the form of a draft Host Country Agreement that would be agreed *ad referendum* between the PrepCom and the Government of Austria. In furtherance of this decision, the group had developed a draft text of such an Agreement. Finally, after consultations the Government of Austria had invited a team of CD experts for a site visit to Vienna to tour the facilities offered for use by the PrepCom and assess the degree to which they could meet the projected needs of the PrepCom, the extent of alterations that might be required, and projected costs for the organization.

2. The site visit to Vienna took place during 8-10 July. The team, led by the delegation of the Friend of the Chair, included experts from twelve nations representing all geo-political groups. Their final report, assessment and recommendations were presented to the Ad Hoc Committee and distributed as CD/NTB/WP.339 dated 7 August 1996. The report identified several issues that would require specific attention during the negotiations with the Government of Austria.

Report

3. The Ad Hoc Committee tasked the Friend of the Chair to assemble a negotiating team and begin negotiations with the Government of Austria on the draft Host Country Agreement. On 9 August, the final draft of the CD's text of the prospective Host Country Agreement was distributed and the negotiating team was announced. The team consisted of the Friend of the Chair, Dr.Ola Dahlman (Sweden), Mr. Peter Goosen (South Africa), Mr. Alexander Vorobiev (Russian Federation), and Mr. Muhammed Afzal (Pakistan). They were assisted by several experts in legal and facility issues provided by the delegations of Australia, France, Germany, Iran, Japan, the Russian Federation, South Africa, Sweden, the United Kingdom, and the United States.

4. The schedule for the negotiations was developed in consultation with Austria and provided for discussion of privileges and immunities during the week of August 12 and facilities and services during the week of August 19.

5. Ambassador Kreid led the Austrian team. He was joined during the first week by Ambassador Ferdinand Trauttmansdorff, Head of Section, General International Law, Federal Ministry for Foreign Affairs, and during the second week by Ambassador Helmut Bauer, Head of Section, International Conferences and Headquarter Matters Concerning International Organizations in Vienna, Federal Ministry for Foreign Affairs. At the outset of the negotiations, the Austrians explained that their plan was to work out as many issues as possible here in Geneva and take unresolved issues back to Vienna to present the CD views to their Ministers. The CD team had expected representatives from concerned ministries on the Austrian side.

However, the Austrian side explained that many of the issues in our text would need to be addressed at the Cabinet level, and they believed we could make better progress at this stage with a small Austrian team.

6. The CD team's general approach to the negotiation was to first hear the Austrian reaction to the 9 August agreement text, deliberate with our experts, hold an expert-level meeting with Austria to agree on wording for minor changes and identify where brackets were really required. Finally, the two sides would meet again formally to hand over papers that explained the CD side's position on matters which could not be resolved at this time, and to provide a bracketed revised draft text that reflected the result of our negotiations. Annex I of this report contains the two talking point papers that were provided to the Austrian side at the conclusion of each week. The result of the two weeks of negotiations is the bracketed text of the Draft Host Country Agreement in Annex II.

7. Under the category of privileges and immunities, the CD team is pressing for several benefits, especially in tax relief. These would benefit the entire multilateral international community in Vienna due to the most favored organization clauses included in all headquarters agreements.

8. On the issues of facilities, services and costs, the CD team discovered during the site visit and through the negotiation process that the actual costs of being housed at the Vienna International Center (VIC) cannot be determined as yet but based on available data they are likely to be at, or above, average commercial rates in Vienna. However, the costs associated with the VIC include the cost of services that would not ordinarily be provided by commercial lessors. These costs in the VIC, which include costs for operation and maintenance, security, etc., are determined by agreements among the various international organizations housed at the VIC, and are not directly influenced by the Government of Austria. With respect to major repairs of the VIC facilities, the Government of Austria is a party to the multiparty major repair fund agreement and is involved in the decisions regarding the use of such funds. With respect to conference rooms, availability of such facilities in the VIC is negotiated among the other organizations, and the Government of Austria cannot guarantee the availability of specific facilities. As a result, if a conference must be held outside the VIC because of size or other limitations, it is unclear what costs the PrepCom will have to bear because of present uncertainty about what is included in the offer of the Government of Austria to provide such conference facilities "free of charge". The Austrian delegation said they would give the PrepCom verbal support in the negotiations with the other organizations.

9. At our final meeting on 22 August, Ambassador Kreid explained that his delegation would prepare a draft report that would be presented to the Council of Ministers in Vienna. Since the Council meets once a week and does not resume regular meetings until after 1 September, he predicted that the Austrian side would not have any answers before 9 September, at the earliest.

Annex I

**Two Papers Presented to Austrian Side
During the Course of Negotiations**

1. Talking Points in Response to Austrian Comments
re: PrepCom Headquarters Agreement
15 August 1996

- Thank you for your comments over the last two days.

- As a preliminary matter, I wish to note that with respect to the general points which you have raised concerning use of language, we are prepared to work with you on a text that to the extent possible uses terms familiar to the various ministries in Austria and the Parliament. It is not our intention to make your job harder than necessary, and we are willing to work with you on the expert level to that end and have even begun to make modifications to the text based on some of our earlier discussions.

- We have discussed your input among ourselves and today would like to focus our attention on the points of most concern to the PrepCom. These are:

1) Vat exemption
2) Work Access
3) Commissary Access
4) Parking at the airport
5) Transit and Residence of Family Members
6) Expedited Visas

1. VAT

The issue of VAT breaks down into three sub-issues that we would like to discuss:

- First, to whom does the exemption apply? The CD has asked that this exemption apply both to all Commission staff and to members of the administrative and technical staff at permanent missions to the PrepCom. We appreciate that this is an expansion of the current regime that restricts this benefit to persons of diplomatic rank. We believe this request is reasonable:

a) With respect to your comments that diplomatic law distinguishes between persons of different rank, we note that Article 37 of the Vienna Convention on Diplomatic Relations makes no such distinction with respect to tax benefits.

b) We appreciate your willingness to accredit a wide range of persons as diplomats upon request. This, however, appears like

an invitation to abuse, and we have approached this exercise by asking for precisely the benefits we believe necessary - in this case a narrow tax exemption and not the broad array of protections accorded to diplomats.

c) We stress that sound policy reasons justify such an extension. Staff members earn less money and can ill afford less benefits. Different benefits on this point damages morale.

- Second, there is the issue of the extent of the exemption afforded. This includes upper limit, time for refund, class of items entitled to the refund, lower limit and % of refund:

- With respect to the 20,000 AS refund ceiling, we note that persons are already reaching this ceiling in less than six months. Given the offered reduction of the minimum purchase to 1000 AS, obviously this ceiling will create a real problem. As they say in English, we assume it was not the intention of your government to give with the left hand, but take with the right. The removal of the ceiling is simply a logical extension of the reduction in limit.

- We appreciate your government's active consideration of the at source reduction and hope that this administratively easy modality will be accomplished soon. In the meantime, prompt VAT refund is essential. As receipts can only be submitted twice a year, we understand that in practice it takes approximately nine months from the time of purchase to obtain a refund. This lengthy period is unacceptable, particularly since Switzerland and the United States provide tax exemption immediately at source. We are asking that the total time from point of purchase be reduced to 3-4 months. This would obviously require increasing the frequency of submission of receipts.

- We note that VAT exemption is not allowed for food and restaurant purchases for less than ten people. Even if there is difficulty lowering the minimum limit to 500 AS as requested, at a minimum VAT exemption should be granted in these two areas. Clearly, food and dining are critical elements of diplomatic work and are important to the PrepCom's functioning. Such exemption is granted in Switzerland and in the U.S.

- We were amazed to learn that only about 2/3 of VAT paid is refunded. All VAT (the full 20% charged) should be refunded.

- We restate our position that the minimum VAT purchase be lowered to 500 AS.

2. Work Access

- With respect to your concern about the extension of the work access right to spouses of resident representatives (Article XIV), as distinguished from officials, we note that Switzerland affords such access. Resident representatives are accredited to the PrepCom and not to Austria, and their spouses should be able to work.

- With respect to work permits, we are willing to accept your offer of an expedited two-step system patterned after the Swiss model. We would want assurances that the initial certificate will be issued immediately upon legitimate application and the subsequent work permit will be issued promptly upon notification of job offer.

- We are prepared to restrict work access to "spouses, as defined by the sending state, and dependent relatives living in the same household." This would drop the term "forming part of," the household and use the term "living in" as is used in the UN-Austria agreement.

3. Commissary Access

- We are prepared to drop the word "unrestricted" throughout, but would like the privileges extended to all members of permanent missions to the organizations, all members of visiting delegations, and all officials of the Organization. We are encouraged by your indication that some or all of these persons are currently allowed access and would like the right expressly provided for in the agreement as indicated.

4. Definition of Family

- In response to your comments, we believe we could delete the overall definition of family in Article 1, provided that certain persons are expressly covered in the Transit and Residence provisions. In a nutshell, with the exception of who is considered a spouse, we are not seeking to broaden the definition of family or change your practices for privileges and immunities or work access purposes. In the area of Transit and Residence, however, we do, require express provision that dependent relatives be allowed access to Austria. Again, we are concerned with the issue of dependent unwed sisters, grandchildren and the like.

We therefore propose that the definition of family be omitted in Article I, but included as a closing paragraph in Section 34, which applies only to transit and residence, as follows:

> "For purposes of this Section, family shall include spouse, as defined by the sending state, minor and dependent adult children, parents and other dependent relatives."

We are also prepared to use the UN-Austria agreement formulation in this Section of "their families and other members of their households" in lieu of the draft agreement's formulation of "forming part of their households."

With respect to spouses, however, we would want to specify in the operative provisions addressing privileges and immunities and work access that spouse be defined "as defined by the sending state."

5. Parking

We appreciate your concern about the vagueness of Section 41 regarding parking. We are willing to delete reference to parking near

Permanent Missions and focus solely on parking at the airport. We understand that at present only a handful of spaces are available. Geneva provides a parking lot for diplomats at the airport and we understand that Paris affords diplomats free airport parking. We could accept a provision that provides 2 hours of free parking in existing public spaces.

6. Expedited Visas

With respect to Section 36, we look forward to your language. We would like, however, to put "multiple entry visas" in brackets for now. We understand that such visas will likely be allowed in any event under the new system but that the terminology is in flux. We could accommodate your concern about visas upon entry by adding the phrase "In exceptional circumstances" to the beginning of the last sentence in Section 36.

2. Talking Points in Response to Austrian Comments
re: PrepCom Headquarters Agreement
22 August 1996

- Thank you for your comments over the last few days.

- As a preliminary matter, I wish to note that as with last week, we have, to the extent possible, used language familiar to the various ministries in Austria and the Parliament. It is not our intention to make your job harder than necessary, and we have worked with you on the expert level to make modifications to that end.

- We have discussed your input among ourselves and today would like to focus our attention on the points of most concern to the PrepCom. As with last week, we would ask that you take these concerns to Vienna with the hope of resolving the issues when we reconvene. These areas are:

1) Repair and Alteration Costs
2) Major Repair Costs
3) Guarantees of Access to Meeting Space
4) Other Costs

1. Repair and Alteration Costs

In reading the Austrian offer, we had understood it to include Austrian payment for repairs and alterations necessary to prepare the facilities to meet the specific needs of the Commission. We saw this as a fairly standard aspect of such an agreement and had developed language that would reflect that such payments would, indeed be provided by the Austrian Government. Recognizing that the specific requirements of the Commission have not been defined, we drafted language that would allow the Headquarters Agreement to proceed, while leaving the specific repairs and alterations to be identified at a later date in an annex.

In discussions of this matter, it appears that the Austrian position is that the VIC can be occupied by the Commission with little or no repairs or alterations. We believe that the repairs and alterations required will be more substantial. For resolution of this problem, the Austrian side has only indicated that such matters can be the subject of negotiations, but that such negotiations must take into account the cost and necessity of such repairs. However, the Austrian side has also indicated that no funds have been set aside for this effort. Taking all this information into account, it appears to us that while we could now agree in the Headquarters Agreement to specific wording, this would only move the problem to later negotiations on an annex for specific repairs and alterations and merely conceal the fundamental disagreement. This would result in difficult future negotiations on that annex, with serious adverse financial consequences likely to be the result to the Commission. We are therefore reluctant to settle on such language, with such a basic difference outstanding.

We would request that the Austrian side be prepared to make specific commitments on the scope of the repairs and alterations in preparation for

occupation by the Commission. In particular, as the actual repairs and alterations are not yet identified, and indeed will only become clearer over a period of time, we believe that an acceptable alternative solution would be the identification of, at a minimum, the initial proposed budgetary amount. At the same time, we understand that requests for repairs and alterations should be limited to those required for start-up, although this will take place over a period of time.

2. Major Repair Costs

It is our belief that the Commission should not be responsible for the costs of major repairs as a result of prior occupancy. In addition, the Commission should only be responsible for future repairs on a pro-rata basis. Your proposal would leave major repair costs to be negotiated in the future with other organizations that are not party to this agreement. Our solution to this issue in this bilateral agreement is to request that for a period of time, the Austrian Government assume the Commission's share of major repair costs, and subsequently, assume any such costs above the Commission's pro rata share, should there be any. We feel this request is not unreasonable, given that the Commission will be occupying space that has been in use for many years, and the extent to which repairs will be needed is unknown to us.

3. Guarantees of Access to Meeting Space

There are two issues we would like to address.

The first issue is in regard to meetings that cannot be accommodated at the VIC. It was recognized, for example, that the conference facilities in the VIC would be inadequate to support meetings of the full Plenary. While we believe this issue is resolved, we are concerned that the discussions appeared to raise the possibility that the Commission would be asked to pay for meetings outside of the VIC. The discussions reached agreed language providing "free of charge" facilities for "meetings organized by the Commission or otherwise convened under the Treaty, if such meetings cannot be accommodated in the conference facilities in the VIC." In our opinion, the agreement is clear that these meetings would be "free of charge." Nevertheless, we want to be certain that Austria shares our understanding on this point.

Our second issue is in regard to facilities for the Executive Council. It is clear that the Commission will need a site for the Executive Council to meet. A commitment of priority to the Commission in one appropriate major conference room, when needed, is a minimum. The Austrian position was that conference rooms in the VIC are managed by the other occupants and their allocation is subject to negotiation between those parties, and that the Government has no role. The Government has expressed only a willingness to provide verbal assistance. We need concrete assurances that the Commission will be provided first priority for at least one major conference room. (This may require that the Commission be the operator of such a conference room).

4. Other Costs

We note the offer to provide the seat of the Commission for 1 Austrian Schilling per year. However, upon closer examination, we were disturbed to discover that there are many other costs, some of them quite substantial, that the Commission will be responsible to pay that could well bring the costs to the Commission up to or even beyond commercially available rates.

A number of CD delegations have already expressed concern over the anticipated budget of the Commission. This is a major point of concern and we need to report such costs as accurately as possible to the Preparatory Commission. Therefore, we would request your full and unqualified assistance in identifying and quantifying all costs involved.

In conclusion, I would like to thank the participants on both sides for their hard work over the last two weeks. I will be providing a status report to the Ad Hoc Committee Chairman in the next few days, summarizing the work done and identifying the open issues. In addition, I will need to inform him of our planned next steps.

I believe that many of these issues will be decided by Ministers in Vienna. While we do not know how long this may take, can we, at this time, tentatively set a date to reconvene?

Annex II

**DRAFT HOST COUNTRY AGREEMENT
by the Friend of the Chair
for Host Country Commitments**

AGREEMENT BETWEEN THE PREPARATORY COMMISSION FOR
THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY ORGANIZATION
AND THE REPUBLIC OF AUSTRIA REGARDING
THE SEAT OF THE COMMISSION

CONSIDERING that the Federal Government of the Republic of Austria has offered to the Preparatory Commission and the Preparatory Commission has accepted the use of land, buildings and facilities within the Vienna International Centre (hereinafter referred to as the "VIC");

NOW THEREFORE the Preparatory Commission and the Republic of Austria have agreed as follows:

Article I

DEFINITIONS

Section 1

In this Agreement:

(a) The expression "Austria" means the Republic of Austria;

(b) The expression "Government" means the Federal Government of the Republic of Austria;

(c) The expression "Commission" means the Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization ("CTBTO"), having the status of an international organization, and includes any subsidiary organs established by the Commission for the exercise of its functions and the fulfillment of its purposes;

(d) The expression "Treaty" means the Comprehensive Nuclear Test-Ban Treaty, opened for signature at _____ on _____;

(e) The expression "Signatory" means a State that has signed the Treaty;

(f) The expression "PTS" means the Provisional Technical Secretariat of the Commission;

(g) The expression "competent Austrian authorities" means such federal, state, municipal, or other authorities in the Republic of Austria

as may be competent in the context and in accordance with the laws and customs applicable in the Republic of Austria;

(h) The expression "laws of Austria" includes:

(1) the federal constitution and state constitutions; and

(2) legislative acts, regulations and orders issued by or under authority of the Government or of competent Austrian authorities;

(i) The expression "seat of the Commission" means:

(1) the area occupied by the Commission in Vienna, as specified in Section 2; and

(2) any other land or building which may from time to time be included, temporarily or permanently, within that seat in accordance with this Agreement or by supplementary agreement with the Government;

(j) The expression "official of the Commission" means the Executive Secretary and all members of the staff of the Provisional Technical Secretariat(PTS), but does not include individuals that are locally recruited and assigned to hourly rates;

(k) The expression "representative" includes all delegates, alternates and advisers of delegations of Signatory states;

(l) The expression "experts" includes any persons, other than representatives to and officials of the Commission, who are performing missions specifically authorized by the Commission, including persons doing so on an uncompensated or seconded basis, or serving on committees or other subsidiary organizations of the Commission at the request of the Commission;

(m) The expression "Vienna Convention" means the Vienna Convention on Diplomatic Relations signed at Vienna on April 18, 1961.

Article II

THE SEAT OF THE COMMISSION IN VIENNA

Section 2

(a) The Government grants to the Commission, and the Commission accepts from the Government, the use and occupation of the area, including the land and buildings, shown on the map attached to this Agreement as the seat of the Commission in Vienna.

(b) The seat of the Commission in Vienna [shall be within the area specified in this section and] shall not be removed therefrom unless the

Commission should so decide. Any transfer of the seat of the Commission temporarily to another place shall not constitute a removal of the seat of the Commission unless there is an express decision by the Commission to that effect.

(c) Upon request by the Commission and concurrence by the Government, the Government shall provide additional land, buildings or building space for the needs of the Commission that can not be met in the seat of the Commission. Any such land or buildings, in or outside of Vienna, used for purposes of the Commission, shall be temporarily included in the seat of the Commission. Before any permanent addition can be made to the seat of the Commission the Government must concur. For all such uses, the present Agreement shall apply mutatis mutandis.

(d) The competent Austrian authorities shall take whatever action may be necessary to ensure that the Commission shall not be dispossessed of all or any part of the seat of the Commission without the express consent of the Commission.

Section 3

(a) The Commission shall have the right to use the seat of the Commission in a manner consistent with the purposes and functions of the Commission and in accordance with the provisions of this Agreement.

(b) Without prejudice to the rights of the Commission referred to in this Article, the Government retains the ownership over the area constituting the seat of the Commission.

(c) If acceptable to the Commission and the Government, the Commission may let space in the seat of the Commission to any natural or juridical person providing services to the Commission or its staff. The rent charged by the Commission to such persons shall, after consultations with the Government, be based on the commercially prevailing rates for such premises, and be transferred in its entirety to the Government, except for payments relating to maintenance and operating costs, which shall be retained by the Commission.

Section 4

The Commission shall pay to the Government with respect to the right to use the seat of the Commission a rental of one Austrian Schilling per annum payable yearly in advance during the period of such use.

Section 5

If the Commission should vacate the seat of the Commission, it shall surrender the area occupied by that seat to the Government in as good a condition as reasonable wear and tear will permit, provided, however, that the Commission shall not be required to restore the area to its shape and state prior to any alteration or change that may have been executed by the Commission or the Government in accordance with this Agreement.

Article III

REPAIRS AND ALTERATIONS

Section 6

(a) Repairs and alterations with respect to any of the buildings [or parts thereof] forming part of the seat of the Commission that are [required] [appropriate] to make the buildings [or parts thereof] suitable for [the initial] occupation by the Commission, in accordance with the space, technical, and security requirements of the Commission, shall be carried out at the expense of the Government. Such repairs and alterations shall be agreed between the Commission and the Government and set forth in writing in an Annex to this Agreement. [This Annex may be amended by agreement between the Commission and the Government.]

(b) Alterations with respect to any of the buildings forming part of the seat of the Commission that may result in a change of a structural nature or architectural appearance, may be carried out by the Commission at its own expense and without the right to reimbursement only after having obtained the consent of the Government.

(c) Other alterations to the buildings or facilities forming part of the seat of the Commission may be carried out by the Commission at its expense and without the right to reimbursement.

Section 7

The Commission shall be responsible at its own expense for the orderly operation and adequate maintenance of the buildings and facilities forming part of the seat of the Commission and of the installations located therein and for minor repairs and replacements for the purpose of keeping them in good working order, and for any repairs or replacements which may be made necessary by faulty operation or inadequate maintenance that is within the responsibility of the Commission.

Section 8

[(a) The Government shall carry out at its own expense major repairs and replacements of buildings, facilities and installations made necessary by causes for which the Commission is not directly responsible or by *force majeure*.]

Note: Austrian alternative sub-section (a) below

[(a) The Government shall carry out at its own expense repairs and replacements of buildings, facilities and installations made necessary by *force majeure* or by faulty material, design or labour used, within the responsibility of the Government, in their construction.]

(b) [The arrangements for defining and financing major repairs and replacements of buildings, facilities and installations forming part of the

seat of the Commission shall be the subject of a separate agreement among the Commission, the Government, and other international organizations at the VIC, provided, however, that for a period of 15 years, the Government shall assume the Commission's share of any such repair and replacement costs. After 15 years, the Government shall assume any such costs allocated to the Commission over and above a *pro rata* share based on time and space of the Commission's occupation of the VIC.]

Note: Austrian alternative sub-section (b) below

[(b) The arrangements for financing the cost of major repairs and replacements of buildings, facilities and technical installations which are the property of the Government and form part of the seat of the Commission shall be the subject of a separate agreement between the Parties and other international organizations at the VIC.]

(c) The Government may carry out at its own expense capital improvements or repairs that have the effect of renewing or significantly extending the life span of buildings, facilities or installations, provided that the prior consent of the Commission is obtained. If such improvements or repairs would significantly affect the operation of the Commission, the Government shall be responsible for providing equivalent, alternative space, at no additional cost, in order to minimize the effect.

Section 9

Whenever the Commission has concluded an insurance contract to cover its liability for damages arising from the use of the seat of the Commission and suffered by juridical or natural persons who are not officials of the Commission, any claim concerning the Commission's liability for such damages may be brought directly against the insurer before Austrian courts, and the insurance contract shall so provide.

Article IV

EQUIPMENT AND FACILITIES

Section 10

(a) Without prejudice to the essential conditions set forth in relevant Austrian standards and established international practice, the Commission shall have the right to acquire from any source it chooses (by purchase, loan or otherwise), install, operate, maintain and replace, equipment and facilities needed for the purposes and functions of the Commission, including, *inter alia*, radio, telephone, telex, telemetry, satellite, computer, facsimile, and television equipment.

(b) Without prejudice to the essential conditions set forth in relevant Austrian standards and established international practice, the Commission shall have the right, freely and without a need for special permission, to obtain dedicated communications links for all types of communications equipment in order to send or receive to sources inside and

outside of Austria. The Commission has the right to use the most cost-effective source and is not required to use any Austrian national system. The Commission has the right to connect all such equipment at appropriate points within Austria to independent systems or to Austria's public telecommunication networks, in accordance with the European interconnection regime and exchange traffic as required by the Commission.

(c) The Commission shall operate its equipment and facilities in accordance with the applicable international standards and the requirements of the Commission. Without prejudice to the Commission's right to confidential communications, pursuant to Section 21, the frequencies used by the Commission's equipment shall be [communicated by the Commission to the Government and to the International Frequency Registration Board.]

(d) The Government shall use its best endeavours to assist the Commission in obtaining the lowest rates accorded to Austrian governmental administrations for radio, television, satellite, telecommunications network and other facilities and connections thereto, in conformity with technical arrangements to be made with the International Telecommunications Union or other appropriate international telecommunications organizations.

Section 11

[The Commission may import, export, reimport, or reexport any equipment and materials it deems necessary for official purposes. The Government shall permit multiple entry and exit of any such equipment and materials without restriction.]

Section 12

[All equipment acquired by or used by the Commission, and all communications of or to the Commission, shall be free of fees and any other charges of the Government or any competent Austrian authorities, except for charges directly related to the cost of providing a service, which shall not exceed the lowest comparable rates accorded to Austrian governmental administrations.]

Section 13

(a) The Commission may establish and operate storage, research, documentation, laboratory, and other technical facilities of any type. These facilities shall be subject to appropriate safeguards that, in the case of facilities which might create hazards to health or safety or interfere with property, shall be agreed upon with the competent Austrian authorities.

(b) The facilities provided for in this Article may, to the extent necessary for efficient operation, be established and operated outside the seat of the Commission. The competent Austrian authorities shall, at the request of the Commission, make arrangements on such terms and in such manner as may be agreed upon by supplementary agreement, for the acquisition or use by the Commission of appropriate premises for such

purposes, and for the inclusion of such premises in the seat of the Commission in accordance with sub-section (c) of Section 2.

Section 14

The Government shall place at the disposal of the Commission, free of charge, such conference facilities at the Austria Center Vienna or at equivalent facilities, as are required for meetings organized by the Commission or otherwise convened under the Treaty, if such meetings cannot be accommodated in the conference facilities at the VIC.

Article V

INVIOLABILITY OF THE SEAT OF THE COMMISSION

Section 15

(a) The Government recognizes the inviolability of the seat of the Commission, which shall be under the control and authority of the Commission as provided in this Agreement.

(b) Except as otherwise provided in this Agreement and subject to any regulation enacted pursuant to Section 16, the laws of Austria shall apply within the seat of the Commission.

(c) Except as otherwise provided in this Agreement, the courts or other competent organs of Austria shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place within the seat of the Commission.

Section 16

(a) The Commission shall have the power to make regulations, operative within the seat of the Commission, for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions. No law of Austria which is inconsistent with a regulation of the Commission authorized by this Section shall, to the extent of such inconsistency, be applicable within the seat of the Commission. Any dispute between the Commission and the Government as to whether a regulation of the Commission is authorized by this Section or as to whether a law of Austria is inconsistent with any regulation of the Commission authorized by this Section, shall be promptly settled by the procedure set out in Article XVIII. Pending such settlement, the regulation of the Commission shall apply and the law of Austria shall be inapplicable in the seat of the Commission to the extent that the Commission claims it to be inconsistent with its regulation.

(b) The Commission shall from time to time inform the Government, as may be appropriate, of regulations made by it in accordance with sub-section (a).

(c) This Section shall not prevent the reasonable application of fire protection or sanitary regulations of the competent Austrian authorities.

Section 17

(a) The seat of the Commission shall be inviolable. No officer or official of the Government or other competent Austrian authorities, or other person exercising any public authority within Austria, shall enter the seat of the Commission to perform any duties therein except with the consent of, and under conditions approved by, the Executive Secretary. Such permission may, however, be presumed in the event of fire or life threatening emergency. Any officer or official of Austria, or other person exercising any public authority within Austria who has entered the seat of the Commission with presumed permission shall, if so requested by or on behalf of the Executive Secretary, leave the seat of the Commission immediately.

(b) The seat of the Commission, its fixtures, furnishings, and other property thereon, and the means of transport of the Commission shall be immune from, *inter alia*, search, requisition, attachment, or execution.

(c) The archives, records, and documents of the Commission shall be inviolable at any time and wherever they may be.

(d) The service of legal process, including the seizure of private property, shall not take place within the seat of the Commission except with the express consent of, and under conditions approved by, the Executive Secretary.

(e) Without prejudice to Article XIII of this Agreement, the Commission shall prevent the seat of the Commission from being used as a refuge by persons who are avoiding arrest under any law of Austria, who are required by the Government for extradition to another country or for deportation, or who are endeavouring to avoid service of legal process.

Article VI

PROTECTION OF THE SEAT OF THE COMMISSION

Section 18

(a) The Government and the competent Austrian authorities shall exercise due diligence to ensure that the tranquillity of the seat of the Commission is not disturbed by any person or group of persons attempting unauthorized entry into or creating disturbances in the immediate vicinity of the seat of the Commission, and shall provide at the boundaries of the seat of the Commission such police protection as may be required for these purposes.

(b) The Commission and the competent Austrian authorities shall closely co-operate regarding the interrelation of effective security within and in the immediate vicinity outside the seat of the Commission.

(c) If so requested by the Executive Secretary, the competent Austrian authorities shall provide a sufficient number of police for the preservation of law and order within the seat of the Commission.

(d) The Commission, in the preparation of its security regulations and procedures, shall consult with the Government with a view to achieving the most effective and efficient exercise of security functions.

Section 19

The competent Austrian authorities shall take all reasonable steps to ensure that the amenities of the seat of the Commission are not prejudiced and that the purposes for which the seat of the Commission is required are not obstructed by any use made of the land or buildings in the vicinity of the seat of the Commission. The Commission shall take all reasonable steps to ensure that the amenities of the land in the vicinity of the seat of the Commission are not prejudiced by any use made of the land or buildings in the seat of the Commission.

Article VII

PUBLIC SERVICES WITHIN THE SEAT OF THE COMMISSION

Section 20

(a) The competent Austrian authorities shall exercise, to the extent requested by the Executive Secretary, their respective powers to ensure that the seat of the Commission is supplied with the necessary public services, including, *inter alia*, electricity, water, sewage, gas, post, telephone, telegraph, any means of communication, local transportation, drainage, collection of refuse, fire protection and snow removal from public streets, and that such public services are supplied on the most favorable terms offered to Austrian governmental administrations.

(b) In case of any interruption or threatened interruption of any such services, the competent Austrian authorities shall consider the needs of the Commission as being of the same importance as those of essential agencies of the Government, and shall take steps accordingly to ensure that the work of the Commission is not prejudiced.

(c) The Executive Secretary shall, upon request, make suitable arrangements to enable duly authorized personnel of the competent public service bodies to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the seat of the Commission under conditions that shall not unreasonably disturb the carrying out of the functions of the Commission.

(d) Where gas, electricity, water or heat is supplied by competent Austrian authorities, or where the prices thereof are under their control, the Commission shall be supplied at rates that shall not exceed the lowest comparable rates accorded to Austrian governmental administrations.

Article VIII

COMMUNICATIONS, PUBLICATIONS AND TRANSPORTATION

Section 21

(a) All official communications addressed to the Commission or to any of its officials at the seat of the Commission, and all outgoing official communications of the Commission, by whatever means or in whatever form transmitted, shall be immune from censorship, from any other form of interception, or from interference with their privacy. Such immunity shall extend, *inter alia*, to publications, still and moving pictures, films, computer based communications, satellite communications, radio, television, telephone, facsimile, telex, sound and video recordings, and other communications.

(b) The Commission shall have the right to use codes, to use methods of encryption, and to dispatch and receive correspondence and other official communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

Section 22

(a) The Government recognizes the right of the Commission freely to publish and broadcast within Austria in the exercise of its functions and fulfillment of its purposes.

(b) It is, however, understood that the Commission shall respect any laws of Austria, or any international conventions to which Austria is a party, relating to copyrights.

Section 23

The Commission shall have the right for its official purposes to use the railroad facilities of the Government and other Government common carriers at rates that shall not exceed the lowest comparable passenger fares and freight rates accorded to Austrian governmental administrations.

Article IX

JURIDICAL PERSONALITY AND IMMUNITY FROM SUIT

Section 24

The Commission shall possess juridical personality. It shall have the capacity:

(a) to contract;
(b) to acquire and dispose of immovable and movable property;
(c) institute legal proceedings.

Section 25

The Commission, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

Article X

FREEDOM FROM TAXATION

Section 26

(a) The Commission, its property, and its income, shall be exempt from all forms of taxation[, direct and indirect, tariffs, duties, or any other fees or charges having equivalent effect,] whether levied by the Government or other competent Austrian authorities; provided, however, that such tax exemption shall not extend to the owner or lessor of any property rented by the Commission.

(b) Insofar as the Government, for important administrative considerations, may be unable to grant to the Commission immediate exemption at source from indirect taxes which constitute part of the cost of goods purchased by or services rendered to the Commission including, *inter alia*, rentals, the Government shall reimburse the Commission for such taxes by the payment from time to time of lump sums [to be agreed upon by the Commission and the Government]. It is, however, understood that the Commission will not claim reimbursement with respect to minor purchases. With respect to such taxes, the Commission shall at all times enjoy at least the same exemptions and facilities as are granted to Austrian governmental administrations or to chiefs of diplomatic missions accredited to Austria, whichever are the more favorable. It is understood that the Commission shall not claim exemption from taxes that are in fact no more than charges for public utility services.

(c) All transactions to which the Commission is a party, and all documents recording such transactions, shall be exempt from all taxes, recording fees, documentary taxes[, and any other fees or charges having equivalent effect]. This principle shall also apply to the supply of goods or services purchased by the Commission for immediate export or use abroad.

(d) Articles imported or exported by the Commission for official purposes shall be exempt from tariffs, customs duties and other levies [or fees having equivalent effect], and from prohibitions and restrictions on imports and exports.

(e) The Commission shall be exempt from tariffs, customs duties and other levies, [or fees having equivalent effect,] and from prohibitions and restrictions on the import [or export] of automobiles, trucks, vans, buses, utility vehicles, other work vehicles, and spare parts thereof, required for its official activities. Vehicles of the Commission that are to be driven outside the seat of the Commission shall be registered in Austria under the same conditions and subject only to the restrictions applied to diplomatic agents accredited to Austria.

(f) The Government shall, if requested, grant allotments of gasoline or other fuels and lubricating oils for each such vehicle operated by the Commission in such quantities as are required for its work and at such special rates as may be established for diplomatic missions in Austria.

(g) Articles imported in accordance with sub-sections (d) and (e) or obtained from the Government in accordance with sub-section (f) shall not be sold by the Commission in Austria within two years of their importation or acquisition, unless otherwise agreed by the Government, except that such articles may be disposed of within two years without charge only for the benefit of international organizations possessing comparable privileges or for the benefit of charitable institutions. [After the expiration of two years, the Commission may sell such articles without the articles being subject to taxes that were waived upon import.]

(h) The Commission shall be exempt from the obligation to pay employer's contributions to the Family Burden Equalization Fund or an instrument with equivalent objectives.

Article XI

FINANCIAL FACILITIES

Section 27

Without being subject to any financial controls, regulations, notification requirements in respect of financial transactions, or moratoria of any kind, the Commission may freely:

(a) Purchase any currencies through authorized channels and hold and dispose of them;

(b) Operate accounts in any currency;

(c) Purchase through authorized channels, hold and dispose of funds, currencies, securities and gold;

(d) Transfer its funds, currencies, securities and gold to or from Austria, to or from any other country, or within Austria; and

(e) Raise funds through the exercise of its borrowing power or in any other manner which it deems desirable, except that with respect to the

raising of funds within Austria the Commission shall obtain the concurrence of the Government.

Section 28

The Government shall assist the Commission to obtain terms at least as favorable as those offered to any agency, department or office of the Government, or international organization, as regards exchange rates, banking commissions in exchange transactions and the like.

Section 29

The Commission shall have the right to establish a pension fund which shall enjoy full legal capacity in Austria and shall enjoy the same exemptions, privileges and immunities as the Commission itself. Benefits received from the pension fund shall be exempt from taxation.

Section 30

The Commission shall, in exercising its rights under this Article, pay due regard to any representations made by the Government insofar as effect can be given to such representations without prejudicing the interests of the Commission.

Article XII

SOCIAL SECURITY

Section 31

The Commission and its officials shall be exempt from the application of all laws of Austria on social insurance, except as may be provided in a supplemental agreement.

Section 32

The Commission and Austria may, through a supplemental agreement, make such provisions as may be necessary to enable any official of the Commission who is not afforded social security coverage by the Commission to participate voluntarily in any social insurance scheme of Austria. The Commission may in accordance with the provisions of such a supplemental agreement arrange for the participation in the Austrian Social Insurance Scheme of those locally recruited members of its staff who do not participate in a pension fund or to whom the Commission does not grant social security protection at least equivalent to that offered under Austrian law.

Article XIII

TRANSIT AND RESIDENCE

Section 33

With respect to the persons listed below, the Government shall take all necessary measures to facilitate their entry into and sojourn in the territory of Austria, shall place no impediment in the way of their departure from the territory of Austria, shall ensure that no impediment is placed in the way of their transit to or from the seat of the Commission, and shall afford them any necessary protection in transit:

(a) Members of Permanent Missions and other representatives of Signatories, their families and other members of their households, as well as clerical and other auxiliary personnel and the spouses and dependent children of such personnel;

(b) Officials of the Commission assigned to Vienna, their families and other members of their households;

(c) Officials of the United Nations, the specialized agencies of the United Nations, or any other intergovernmental organization, who are attached to the Commission or who have official business with the Commission in Vienna, and their spouses and dependent children;

(d) Representatives of other organizations with which the Commission has established official relations, who have official business with the Commission in Vienna;

[(e) Experts and members of their families forming part of their households;]

(f) Representatives of the press, radio, film, television or other information media, who have been accredited to the Commission in Vienna, after consultation between the Commission and the Government;

(g) Representatives of other organizations or other persons invited by the Commission to the seat of the Commission on official business. The Executive Secretary shall communicate the names of such persons to the Government before their intended entry.

[For purposes of this Section, family shall include spouses, as defined by the sending state, minors and dependent adults.]

Section 34

This Article shall not apply in the case of general interruptions of transportation, which shall be dealt with as provided in sub-section (b) of Section 20, and shall not impair the effectiveness of generally applicable laws relating to the operation of means of transportation.

Section 35

Visas where required for persons referred to in this Article, providing for multiple entries, if requested, shall be granted without charge and as promptly as possible. In exceptional circumstances, the Government shall endeavour to make such arrangements as are necessary to enable such persons to obtain a visa upon arrival in Austria.

Section 36

Without prejudice to sub-section (c) of Section 63, no activity performed by any person referred to in Section 33 in his or her official capacity with respect to the Commission shall constitute a reason for preventing that person's entry into or departure from the territory of Austria or for requiring that person to leave such territory.

Section 37

No person referred to in Section 33 shall be required by the Government to leave the territory of Austria save in the event of an abuse of the right of residence, in which case the following procedures shall apply:

(a) No proceeding shall be instituted to require any such person to leave the territory of Austria except with the prior approval of the Federal Minister for Foreign Affairs or the States Secretary for Foreign Affairs or the Secretary General for Foreign Affairs of Austria;

(b) In the case of a representative of a Signatory, such approval shall be given only after consultation with the Government of the Signatory concerned;

(c) In the case of any other person mentioned in Section 33, such approval shall be given only after consultation with the Executive Secretary, or that person's designate, and, if expulsion proceedings are taken against any such person, the Executive Secretary, or that person's designate, shall have the right to appear or to be represented in such proceedings on behalf of the person against whom such proceedings are instituted; and

(d) Persons who are entitled to diplomatic privileges and immunities under Article XV shall not be required to leave the territory of Austria otherwise than in accordance with the customary procedure applicable to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to Austria.

Section 38

This Article shall not prevent the requirement of reasonable evidence to establish that persons claiming the rights granted by this Article come within the categories described in Section 33, or the reasonable application of quarantine and health regulations.

Section 39

The Executive Secretary and the competent Austrian authorities shall, at the request of either of them, consult as to methods of facilitating entrance into the territory of Austria, and as to the use of available means of transportation, by persons coming from abroad who wish to visit the seat of the Commission and who do not enjoy the privileges provided by this Article.

Article XIV

PRIVILEGES AND IMMUNITIES FOR REPRESENTATIVES TO THE COMMISSION

Section 40

In addition to any rights specifically provided by this Agreement, Permanent Missions accredited by Signatories to the Commission in Vienna shall enjoy the same privileges and immunities as are accorded to diplomatic missions in Austria, on terms that are no less favorable than the terms provided to any diplomatic mission in Austria. [In addition, the Government shall make available, at no cost, sufficient parking at Vienna International Airport for use by such Permanent Missions.]
[Note: this sentence will be changed and moved to a more appropriate place.]

Section 41

(a) Members of Permanent Missions accredited to the Commission in Vienna, and members of their families forming part of their household, shall be entitled to the same privileges and immunities as the Government accords to members, having comparable rank, of diplomatic missions accredited to Austria, and to members of their families forming part of their households.

(b) Persons covered by sub-section (a) shall enjoy:

[1. Exemption from all taxes and dues, personal or real, direct or indirect (including, inter alia, VAT, vehicle taxes, and engine-related taxes), national, regional, municipal, or local, except for instances specified in Article 33, paragraphs (b) through (f), of the Vienna Convention. With regard to VAT:

(i) The exemption from VAT applies to articles, goods, services (including restaurant and similar services), food and beverages, and supplies purchased for personal use;

(ii) The VAT exemption shall be granted by means of deduction at source for amounts of not less than 500 Schillings per invoice, without upper limit. In cases where VAT is not deducted at the source,the Government shall provide for reimbursement to the individual within three months of

purchase, of All VAT paid on all goods and services upon application by the individual accompanied with receipts or other business records that provide a basis for calculation of the amount of the tax paid. VAT shall be deducted without lower limit from bills of the postal and telecommunications service and from bills for public utility services.]

2. Exemption from taxation with respect to the salaries, emoluments, indemnities and pensions paid to them for services past or present by their sending State or from sources outside of Austria.

3. Exemption from inheritance and gift taxes, except with respect to immovable property located in Austria, insofar as the obligation to pay such taxes arises solely from the fact that the individual concerned resides or maintains a usual domicile in Austria.

[4. Unrestricted commissary privileges at the VIC.]

[5. The right to import and export, for personal and family use, two automobiles and one motorcycle every two years free from all tax, duty, tariff and other charges having equivalent effect, provided that such right shall enure solely to the mission member. Such vehicles shall be registered in Austria under the same conditions and subject only to the restrictions applied to diplomatic agents accredited to Austria. Such vehicles may be sold on the open market without being subject to taxes that were waived upon import, two years after their import.]

Section 42

[(a) Spouses and dependent relatives forming part of the household of persons in Section 41 shall have the right to have access to the labor market in Austria. In this regard and pursuant to expedited procedures, upon application by a family member, the Government shall provide a work permit without any requirement for the existence of a specific job offer.

(b) The Government shall provide such family members an exemption from any numerical quotas that might otherwise apply to work in Austria by foreigners.

(c) Such family members engaged in gainful occupation shall not enjoy immunity from civil and administrative jurisdiction with respect to such activities.]

Section 43

Representatives of States and of intergovernmental organizations to meetings of, or convened by, the Commission and those who have official business with the Commission in Vienna, shall, while exercising their

functions and during their journeys to and from Austria, enjoy the privileges and immunities provided in Article IV of the Convention on the Privileges and Immunities of the United Nations approved by the General Assembly of the United Nations on 13 February 1946. [In addition, all such persons shall be entitled to unrestricted commissary privileges at the VIC.]

Section 44

Having regard to Article 38(1) of the Vienna Convention and to the practice of Austria, members of Permanent Missions, who are Austrian national or stateless persons resident in Austria, shall, with respect to privileges and immunities, be accorded only immunity from legal process of every kind in respect of words spoken or written and all acts done by them in their capacity as members of such Permanent Missions.

Section 45

In conformity with Article 42 of the Vienna Convention and the practice of Austria, members of Permanent Missions, referred to in Section 41, who are enjoying the same privileges and immunities as are accorded to members having comparable rank of diplomatic missions accredited to Austria, shall not practice for personal profit any professional or commercial activity within Austria, except for family members that have obtained local employment in accordance with this Article.

Section 46

The Commission shall communicate to the Government a list of persons within the scope of this Article and shall revise such list from time to time as may be necessary.

Article XV

PRIVILEGES AND IMMUNITIES FOR OFFICIALS OF THE COMMISSION

Section 47

Officials of the Commission shall, without prejudice to any other privileges and immunities to which they may be entitled while exercising their functions and during their journeys to and from the seat of the Commission, be entitled to the following privileges and immunities within and with respect to Austria:

(a) Immunity from seizure of their official or personal baggage;

(b) Immunity from inspection of their official baggage;

(c) Exemption with respect to themselves, their spouses, [as defined by the sending state,] their dependent relatives and other members of their households from immigration restrictions and alien registration;

(d) Exemption [with respect to themselves and members of their families forming part of their households] from national service obligations, provided that, with respect to Austrian nationals, such exemption shall be confined to officials whose names have, by reason of their duties, been placed upon a list compiled by the Commission and transmitted to the Government; provided further that should officials, other than those listed, who are Austrian nationals, be called up for national service, the Government shall, upon request of the Executive Secretary, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption of the essential work of the Commission;

(e) Immunity from legal process of any kind with respect to words spoken or written, and of acts performed by them, in the performance of official functions, such immunity to continue, notwithstanding that the persons concerned may have ceased to be officials of the Commission, or may no longer be engaged in the performance of such functions;

(f) Freedom [with respect to themselves and members of their families forming part of their households] to acquire or maintain within Austria or elsewhere, foreign securities, foreign currency accounts, and other movable property; and, under the same conditions applicable to Austrian nationals, immovable property in Austria. At the termination of their assignment with the Commission in Vienna, the right to take out of Austria through authorized channels without prohibition or restriction, their funds in [any currency];

(g) The same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives, and other members of their households as are accorded in times of international crisis to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to Austria;

[(h) Exemption with respect to themselves, their spouses and members of their families forming part of their household, from all taxes and dues, personal or real, direct or indirect (including, *inter alia*, VAT, vehicle taxes, and engine-related taxes), national, regional, municipal, or local, except for instances specified in Article 33, paragraphs (b) through (f), of the Vienna Convention. With regard to VAT:

(1) The exemption from VAT applies to articles, goods, services (including restaurant and similar services), and supplies purchased for personal use;

(2) The VAT exemption shall be granted by means of deduction at source for amounts of not less than 500 Schillings per invoice, without upper limit. In cases where VAT is not deducted at the source, the Government shall provide for reimbursement to the individual, within three months of purchase, for all VAT paid on all goods and services upon application by the individual accompanied with receipts or other business records that provide a basis for calculation of the amount of the tax paid. VAT shall be

deducted without lower limit from bills of the postal and telecommunications service and from bills for public utility services];

(i) Exemption from taxation in respect of the salaries, emoluments, indemnities and pensions paid to them for services past or present by the Commission or in connection with their service with the Commission or from sources outside of Austria;

(j) Exemption from taxation on all income and property of officials and members of their families forming part of their households, insofar as the obligation to pay such taxes arises solely from the fact that the officials and members of their household reside or maintain their usual domicile in Austria. Such exemption shall not be construed to extend to taxes levied on income earned in Austria pursuant to Section 48;

(k) Exemption from inheritance and gift taxes, except with respect to immovable property located in Austria, insofar as the obligation to pay such taxes arises solely from the fact that the officials and members of their household reside or maintain their usual domicile in Austria;

(l) [Unrestricted commissary privileges at the VIC;]

(m) The right to import [and export], for personal use and establishment of a household, personal and household goods, furniture, supplies, and other similar articles, free from all tax, duty, tariff and other charges having equivalent effect;

(1) one or more shipments shall be allowed;

(2) such shipment to be free from inspection, unless serious grounds exist that the contents are not for personal or household use, are prohibited by law, or controlled by quarantine;

(n) The right to import [and export], for personal and family use, [two] automobile[s] and one motorcycle every [two] years free from all tax, duty, tariff and other charges having equivalent effect. Such vehicles shall be registered in Austria under the same conditions and subject only to the restrictions applied to diplomatic agents accredited to Austria. [Such vehicles may be sold on the open market without being subject to taxes that were waived upon import, [two] years after their import];

(o) Exemption from taxation in respect of benefits received from their participation in the Austrian Social Insurance Scheme; and

(p) [For themselves, and members of their families forming part of their household] on the same terms as Austrian citizens, the right of access to universities and other institutions of higher education for the purpose of obtaining graduate and post-graduate degrees and related training leading to the attainment of the relevant educational and professional qualifications required in Austria.

Section 48

(a) Spouses and dependent relatives of officials of the Commission, living in the same household, shall have access to the labor market in Austria. [In this regard and pursuant to expedited procedures, upon application by a family member, the Government shall provide a work permit without any requirement for the existence of a specific job offer.]

(b) The Government shall provide such family members an exemption from any numerical quotas that might otherwise apply to work in Austria by foreigners.

(c) Such family members engaged in gainful occupation shall not enjoy immunity from civil and administrative jurisdiction with respect to such activities.

Section 49

Individuals provided the privileges and immunities in this Article shall not practice for personal profit any professional or commercial activity within Austria, except for family members that have obtained local employment in accordance with this Article.

Section 50

In addition to the privileges and immunities specified in this Article:

(a) The Executive Secretary shall be accorded the privileges and immunities, exemptions and facilities accorded to ambassadors who are heads of missions;

(b) A senior official of the Commission, when acting on behalf of the Executive Secretary during the latter's absence from duty, shall be accorded the same privileges and immunities, exemptions and facilities as are accorded to the Executive Secretary;

(c) Other officials having the professional grade of P-5 and above, and such additional categories of officials as may be designated, in agreement with the Government, by the Executive Secretary on the ground of the responsibilities of their positions in the Commission, shall be accorded the same privileges and immunities, exemptions and facilities as the Government accords to members, having comparable rank, of the staffs of diplomatic missions accredited to Austria.

(d) In conformity with Article 42 of the Vienna Convention and the practice of Austria, officials enjoying the same privileges and immunities as are accorded to members having comparable rank of diplomatic missions accredited to Austria shall not practice for personal profit any professional or commercial activity within Austria.

(e) The members of the family of an official referred to in this Section, forming part of his or her household, shall, if they are not

Austrian nationals or stateless persons resident in Austria, enjoy those privileges and immunities specified for that category of persons by the Vienna Convention.

Section 51

Except as otherwise provided, officials of the Commission who are Austrian nationals or stateless persons resident in Austria, shall enjoy only those privileges and immunities provided for in Section 18, sub-sections (a), (b), (d), and (e) of the Convention on the Privileges and Immunities of the United Nations approved by the General Assembly of the United Nations on 13 February 1946, it being understood, nevertheless, that such privileges and immunities include:

(1) exemption from taxation on benefits paid to them by a pension fund;

(2) access to the commissary at the VIC.

Section 52

Officials of the Commission and members of their families forming part of their households to whom this Agreement applies shall not be entitled to payments out of the Family Burden Equalization Fund or an instrument with equivalent objectives, unless such persons are Austrian nationals or stateless persons resident in Austria.

Section 53

The Executive Secretary shall communicate to the Government a list of officials of the Commission assigned to Vienna and shall revise such list from time to time as may be necessary.

Article XVI

EXPERTS ON MISSION FOR THE COMMISSION

Section 54

(a) Experts as defined in Article I shall enjoy within and with respect to Austria the privileges and immunities accorded by the Government to Experts on Mission for the United Nations pursuant to Article XIII, Sections 42 and 43 of the Agreement between the United Nations and Austria Regarding the Seat of the United Nations in Vienna dated November 29, 1995. [In addition, such experts shall enjoy unrestricted commissary privileges at the VIC.]

(b) The Commission shall communicate to the Government a list of persons within the scope of this Article and shall revise such list from time to time as may be necessary.

Article XVII

IDENTITY CARDS

Section 55

Upon the request of the Commission, or, with respect to Representatives of Signatories, upon the request of the Permanent Mission of such State, the Government shall furnish [the Commission] for each individual within the scope of Articles XIV, XV, and XVI with an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to all Austrian authorities as well as serve as a multiple entry visa and, with respect to persons enjoying VAT exemption, shall entitle the bearer to VAT deduction at source.

Article XVIII

SETTLEMENT OF DISPUTES

Section 56

The Commission shall make provision for appropriate methods of settlement of:

(a) Disputes arising out of contracts and disputes of a private law character to which the Commission is a party; and

(b) Disputes involving an official of or expert on mission for the Commission who, by reason of his or her official position, enjoys immunity, if such immunity has not been waived.

Section 57

(a) Any dispute between the Commission and the Government concerning the interpretation or application of this Agreement or of any supplementary agreement, or any question affecting the seat of the Commission or the relationship between the Commission and the Government, which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators: one to be chosen by the Executive Secretary, one to be chosen by the Federal Minister for Foreign Affairs of Austria, and the third, who shall be chairman of the tribunal, to be chosen by the first two arbitrators. Should either Party not have chosen its arbitrator within six months following the appointment by the other Party of its arbitrator or should the first two arbitrators fail to agree upon the third within three months following the appointment of the first two arbitrators, such second or third arbitrator shall be chosen by the President of the International Court of Justice at the request of the Commission or of the Government. The third arbitrator shall not be a national of Austria. A majority of the arbitral tribunal shall constitute a quorum and all decisions shall require the concurrence of two arbitrators. The arbitral tribunal's procedures and

rules shall be fixed by the tribunal. The decisions of the tribunal shall be binding on both parties.

(b) The Executive Secretary of the Commission or the Government may ask the United Nations General Assembly to request of the International Court of Justice an advisory opinion on any legal question arising in the course of such proceedings. Pending the receipt of the opinion of the Court, any interim decision of the arbitral tribunal shall be observed by both Parties. Thereafter, the arbitral tribunal shall render a final decision, having regard to the opinion of the Court.

Article XIX

GENERAL PROVISIONS

Section 58

Austria shall not incur by reason of the location of the seat of the Commission within its territory any international responsibility for acts or omissions of the Commission or of its officials acting or abstaining from acting within the scope of their functions, other than the international responsibility which Austria would incur as a Signatory.

Section 59

Without prejudice to the privileges and immunities accorded by this Agreement, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of Austria, and not to interfere in the internal affairs of this State.

Section 60

(a) The Executive Secretary shall take every precaution to ensure that no abuse of a privilege or immunity conferred by this Agreement shall occur, and for this purpose shall establish such rules and regulations as may be deemed necessary and expedient, for officials of the Commission and for such other persons as may be appropriate.

(b) Should the Government consider that an abuse of a privilege or immunity conferred by this Agreement has occurred, the Executive Secretary shall, upon request, consult with the competent Austrian authorities to determine whether any such abuse has occurred. If such consultations fail to achieve a result satisfactory to the Executive Secretary and to the Government, the matter shall be determined in accordance with the procedure set out in Article XVIII.

Section 61

This Agreement shall apply whether or not the Government maintains diplomatic relations with any State or Organization concerned and irrespective of whether the State concerned grants the same privileges or immunities to diplomatic envoys or nationals of Austria.

Section 62

Whenever this Agreement imposes obligations on the competent Austrian authorities, the ultimate responsibility for the fulfillment of such obligations shall rest with the Government.

Section 63

(a) This Agreement shall be construed in the light of its primary purpose of enabling the Commission at its seat in Austria to fully and efficiently discharge its responsibilities and fulfil its purposes.

(b) Privileges and immunities are granted to individuals on mission, in the interests of the Commission and not for the personal benefit of the individuals themselves.

(c) The Executive Secretary shall have the right and the duty to waive the immunity of any official in any case where, in his or her opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Commission.

Section 64

Consultations with respect to modification of this Agreement shall be entered into at the request of the Commission or the Government. Any such modification shall be by mutual consent expressed in an exchange of letters or an agreement concluded by the Commission and the Government.

Section 65

(a) The Commission and the Government may enter into such supplemental agreements as may be necessary.

(b) If and to the extent that the Government shall enter into any agreement with any intergovernmental organization containing terms or conditions more favorable to that organization than similar terms or conditions of this Agreement, the Government shall extend such more favorable terms or conditions to the Commission, by means of a supplemental agreement.

Section 66

This Agreement shall cease to be in force:

(a) By mutual consent of the Commission and the Government; or

(b) If the seat of the Commission is removed from the territory of Austria, except for such provisions as may be applicable in connection with the orderly termination of the operations of the Commission at its seat in Austria and the disposal of its property therein; or

(c) Upon the conclusion of the first session of the Conference of the States Parties of the Comprehensive Nuclear Test-Ban Treaty Organization.

Section 67

This Agreement shall enter into force on the first day of the month following the day the Government has notified the Commission that the necessary constitutional conditions for its entry into force have been fulfilled.

DONE at Vienna, in duplicate, in the English and German languages, both versions being equally authentic, on this day of one thousand nine hundred and ninety- .

FOR THE COMMISSION:
Executive Secretary

FOR THE REPUBLIC OF AUSTRIA:
Vice-Chancellor and Federal Minister for Foreign Affairs